IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2014 OF 2006

The State of Maharashtra ..Applicant

Vs.

Shahu Sidram Pawar ..Respondent

Mr. A.S. Shitole, APP for applicant-State.
Mr. S.S. Yadav i/by Mr. S.R. Ganbavale for respondent.

CORAM: B.H. MARLAPALLE, J.

Date : September 28, 2007.

P.C.:

1. This is an application for leave to appeal under Section 378(3) of Cr.P.C. against the order of acquittal passed by the learned Special Judge at Pune on 29/12/2005 in Special Case No. 29 of 2000. The respondent-accused was put on trial for the offences punishable under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. The trial court held that the sanction order at Exh.33 passed by Shri Nanasaheb Bothe on 26/7/2000 under Section 19 of the Act was not valid and that the prosecution failed to prove that on 20/1/2000 the

accused had demanded bribe of Rs.500/- and accepted the same on 1/2/2000 from Pradeepkumar (PW 1) in order to enter the names of the legal heirs in place of his deceased father, mother and brother in the revenue records of the land owned by his family. Consequently, the trial court held that the prosecution could not prove that the accused being a public servant committed criminal misconduct by accepting Rs.500/- from Pradeepkumar (PW 1) as illegal gratification. At the relevant time the accused was working as Talathi at village Dimbe, Saja, Taluka Ambegaon, District Pune and, therefore, he was a public servant. From the chit at Exh.29 left by the complainant PW 1 Pradeepkumar at the house of the accused on 19/1/2000, it appears he was holding the post of Dy.S.P., CID, Crime at Latur. On the first count, it was noted by the trial court that PW 2 Nanasaheb Bothe was holding the post of Sub Divisional Officer of Sub Division Khed and the sanction order at Exh.33 was passed by him. As per the trial court there was no evidence to reveal that PW 2 Nanasaheb was the appointing authority and also competent to remove the accused from the post of Talathi. On the

other hand, in the evidence of PW 2 Nanasaheb, it was admitted that it was the Collector, Pune who was the Head of the District and the Sub Divisions of District were under the control of Collector. He also admitted that the accused was selected and deputed for training by the Collector vide his order dated 30/3/1982.

2. On the second count, the trial court held that there was no motive proved by the prosecution and attributable to the accused in demanding the bribe of Rs.500/- from PW 1 Pradeepkumar. There were three applications in all which PW 1 Pradeepkumar had submitted for correcting the entries in the revenue records, namely, Exh.26 dated 20/1/2000, Exh.27 dated 14/1/2000 and Exh.30 dated 1/2/2000. The subject land was bearing Gat Nos. 92, 93 and 95 and the applications at Exhs.26 and 27 did not speak anything about the Gat Nos. 92, 93 and 95. As per application at Exh.26 submitted by PW 1 Pradeepkumar the 7x12 extract was corrected and handed over to him on the same date i.e. 20/1/2000. Exh.27 was an affidavit in support of the application at Exh.26. The trial court, therefore, held that on 20/1/2000 PW 1 had no

work pending in respect of entries to the land in Gat Nos.92, 93 and 95. The application at Exh.30 was in respect of Gat Nos.92 and 95. But at the same time, on 20/1/2000 itself his work was already done and, therefore, there was no reason for the accused to demand from Pradeepkumar on 20/1/2000 the bribe of Rs.500/- which was sought to be paid on 1/2/2000.

3. This reasoning set out by the trial court in support of the order of acquittal is based on the evidence, oral as well as written, as brought on record by the prosecution and, therefore, it does not warrant reconsideration at the hands of this court.

4. Hence, leave to appeal is refused and the application is rejected.

(B.H. Marlapalle,J.)